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SOME ASPECTS OF THE VICE-PRESIDENCY

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No one has yet given any careful attention to the vice-presidency on its historical bearings. Indeed, if one may judge by the opinions of writers who have touched upon the theme, it would seem to be hardly worth consideration. Within recent years there has been a good deal of free discussion of the vice-presidential office, chiefly, it would appear for the purpose of trying to supply the second officer of the national government with something to do. The ideal of the office as a sinecure is not only widespread but old. The office, it is said, offers nothing attractive to men of first-rate capacity. At this point, some one is sure to recall John Adams's reflection of December, 1793, when he wrote that "my country has in its wisdom contrived for me the most insignificant office that ever the invention of man contrived or his imagination conceived. And as I can do neither good nor evil, I must be borne away by others and meet the common fate."¹ It may be desirable at the outset to call attention to several other well-known opinions.

Writing not far from the middle of the last century, the elder Charles Francis Adams declared: "No high situation in the government of the United States could now be so easily lopped off without missing it as that of the vice-president. Its only consequence depends upon the contingency of a succession to the chief office."² According to Mr. Blaine, the vice-president's "most honorable function—that of presiding over the senate—was purely ceremonial, and carried with it no attribute of power except in those rare cases when the vote of the senate was tied—a contingency more apt," he remarks, "to embarrass than to promote his political interests."³ In Mr. Bryce's opinion, the "Vice-President's office is ill-conceived. His only ordinary function is to act as chairman of the senate, but as he does not appoint the committees of that house, and has not even a vote (except a casting

¹ *Works*, i, 460.

² *Ibid.*, i, 447.

³ *Twenty Years of Congress*, ii, 57.

vote) in it, this function is of little moment."⁴ Mr. Woodrow Wilson's judgment of the vice-president, epigrammatically expressed, is this: "His chief dignity, next to presiding over the senate, lies in the circumstance that he is awaiting the death or disability of the President. And the chief embarrassment in discussing his office is, that in explaining how little there is to be said about it one has evidently said all there is to say."⁵

These views are significant of the tone of dissatisfaction with the office which may be detected from the epoch of its creation in the latter days of the Federal Convention. Differing in minor respects, they recognize clearly two phases of the subject which it may be well at once to differentiate. First, the chief distinction of the vice-presidency lies in the fact that it is a national office, the occupant of which is (like the President) elected by the people. Its ultimate usefulness rests on a contingency—the more or less remote possibility that the vice-president may be called to fill a vacancy, however produced, in the chief magistracy. Second, even without the occurrence of a vacancy, the second officer derives some distinction from his constitutional place as chairman of our permanent second chamber, the senate. Our democratic ideal, it is true, makes us as a nation impatient of idleness in public as well as in private life. We do not care for those theatrical elements that have meant much in the English government. Hence we have been and are opposed to a mere chairmanship which has won thus far almost no power, and bears nothing more burdensome than a remote responsibility. We have always put up with an heir apparent in the person of a vice-president. But the prevailing attitude toward him is apt to find expression in the sentiment: Why have a second officer without any adequate employment? In keeping with this attitude there have been many efforts in the past on the part of public men—by no means always successful, to be sure—to avoid candidacy for the vice-presidential office. At least four men actually chosen for the vice-presidency by national conventions or national committees have hitherto declined the place.⁶

⁴ *American Commonwealth* (rev. ed.), i, 300.

⁵ *Congressional Government*, 13th ed., 1898, pp. 240-241.

⁶ The first declination of the vice-presidency after a nomination seems to have been that of Thomas Earl of Pennsylvania, placed on the ticket of the Abolition party with James G. Birney of New York by a convention held at Warsaw, N. Y., on November 13, 1839, Earl's substitute was Francis Lemoyne, likewise of Pennsylvania. T. H. McKee, *The National Conventions and Platforms* (5th ed.,

On the other hand, if one asks what can be done to re-adjust the position of the vice-president for the sake of increasing his usefulness in our system of government, the answer is not and never has been at all clear. Assuming that the office was originally ill-conceived, as Mr. Bryce believes, it is remarkable that some of its characteristic features have been adopted in many of our state constitutions. In more than thirty states of the Union today the second state officer, commonly known as the lieutenant-governor, chosen by popular vote, is made chairman of the senate and given only a casting vote.⁷ It will be recalled that the southern statesmen of 1861, familiar with the federal Constitution as it had existed for a period of over seventy years, adopted the features of the vice-presidency exactly as they found them.⁸ Moreover, there have been seven attempts to have the office of vice-president abolished by constitutional amendment between 1802 and 1873, but without success.⁹

The vice-presidency has existed, as everybody knows, for a period of upwards of one hundred and twenty-three years. Its twenty-seven occupants have come from about the same range of States east of the Mississippi River that have given us as many Presidents. Among the States of marked political importance in this range Ohio alone has not yet afforded a vice-president. Twelve states have provided us with vice-presidents; and among these New York stands first. From New York came five vice-presidents before the Civil War, and five after that epoch.

I am inclined to think that there are good reasons today for a reconsideration, even at the risk of covering old and well-trodden ground, of

1904), p. 43. The second instance, that of Silas Wright of New York, is well known. Wright's substitute was George M. Dallas of Pennsylvania who ran with J. K. Polk in 1844. *Ibid.*, p. 48. In the Utica convention of the Free-Soilers of June 22, 1848, General Henry Dodge of Wisconsin was named for the second place on the ticket with Van Buren, but subsequently declined it, and was replaced by Charles Francis Adams. *Ibid.*, p. 66. The fourth instance occurred in 1860 when Benjamin Fitzpatrick of Alabama, nominated on the first ballot by the Democratic convention at Baltimore, declined. The national committee then placed the name of Herschel V. Johnson of Tennessee on the ticket with Stephen A. Douglas. *Ibid.*, p. 108.

⁷ F. J. Stimson, *The Law of the Federal and State Constitutions*, 1908, pp. 243, 244.

⁸ Jefferson Davis, *The Rise and Fall of the Confederate Government*, 1881, pp. 651, 662 ff.

⁹ Herman V. Ames, *Proposed Amendments to the Constitution*, 1896, pp. 70 ff., and Appendix A.

the earlier historic materials bearing on the office of vice-president. To these materials, accordingly, I shall devote a part of this paper. In conclusion I should like to say something about one among several of the projects that have been recently discussed with a view to giving the vice-president greater responsibility and more to do.

I

The term "vice-president" does not appear in the records of the Federal Convention before September 4, 1787. Nor is there any reference before that day to the casting vote of such an officer. These two facts, however, may easily be overemphasized,¹⁰ for as early as June 4 Benjamin Franklin drew attention to the necessity of arranging for a possible successor to the chief executive;¹¹ and several days later on June 9, Governor Randolph was puzzling over the same problem.¹² Hamilton proposed definitely on June 18 that on the death, resignation, or removal of "the Governour," his authority should be exercised "by the president of the senate."¹³ Henceforth until early September this arrangement for a successor to the executive kept recurring in the debates as a more or less well-defined plan. With it there was coupled the view that the senate should choose its own presiding officer. In other words until a comparatively late stage of the proceedings the president of the senate, chosen by the senate, was expected to succeed the chief magistrate in case there was for any reason a vacancy.¹⁴

The details of executive organization proved to be very troublesome. Not until August 24, when the Convention had already shown unmistakable signs of excessive weariness, was the subject clearly faced. On that day there was no expressed dissent to a single executive officer to be known as President. Although there was no agreement as yet as to his mode of election, the idea that he was to be chosen by the national legislature had lost ground under the persistent opposition to it of such men as Madison, Wilson, and Gouverneur Morris, all advocates of the plan that the President should somehow be representative of the people. These men insisted that the President must be independent of the legislature for the sake of acting at times as a check upon it. Hence it is not surprising to find both Madison and Morris among those

¹⁰ See, for example, Senator A. J. Beveridge's article, "The Vice-President; the Fifth Wheel in our Government," in the *Century*, December, 1909, lvii, 208 ff.

¹¹ Max Farrand, *The Records of the Federal Convention*, i, 102.

¹² *Ibid.*, i, 176.

¹³ *Ibid.*, i, 292.

¹⁴ *Ibid.*, ii, 146, 155, 158, 163, 165, 172, 179, 186; iii, 622, 625.

who on August 27 voiced an objection to making the president of the senate provisional successor of the chief magistrate.¹⁵

The question of providing a successor to the President in case of a vacancy—the vacancy question, as it may be briefly termed—was one of those problems which confronted the committee of eleven on unfinished parts on August 31 and the days immediately following. So frequently since June 18 had the plan of making the president of the senate successor of the chief magistrate been voiced or formulated, that one must presume that the committee could not ignore it. But the vacancy question was interwoven with another far more fundamental—that of the method of election of the President. In fact, the method of election determined upon by the committee would seem to have forced into being the device of the vice-president, for that device, appearing first before the whole Convention on September 4, was finally accepted three days later, on September 7.¹⁶ After the choice of President, the person having the greatest number of votes of the electors was to be vice-president. The whole electoral scheme, it may be said, was probably made with some reference to allowing the larger states, sure to have a majority of electors, the first office. But the minority, the smaller states, still had a fair chance to win the second office, especially if the election were carried to the house of representatives, in which case every state would have an equal, and only a single vote.

Thus it was in keeping with past suggestions that the second officer of the government, chosen quite independently of the senate, was placed over the senate as its regular presiding officer, although there appeared to be in this arrangement some commingling of executive and legislative function. The vice-president was not, however, to be a member of the senate. In the matter of a balanced vote in that body—a contingency depending on circumstances and quite indeterminable—he was given the right of a casting ballot, for the sake doubtless of speeding action on senate matters. The plan was in most respects similar to that of the New York state constitution of 1777 regarding the position of lieutenant-governor.¹⁷

Over the office of vice-president as thus provided for, there was in the Convention no prolonged discussion. With comparative ease the arrangement gained the Convention's approval. It may help to clarify contemporary and divergent views regarding the new office, if I sepa-

¹⁵ *Ibid.*, ii, 401 ff., 427.

¹⁶ *Ibid.*, ii, 481, 495, 499 ff., 532, 536-538.

¹⁷ *Charters and Constitutions*, B. P. Poore, editor; 2d ed. 1878, II, 1336. Sec.xx.

rate the group of men who opposed the plan from the group which favored it—whether in the session of the Federal Convention, or later over a period of many months (1787–1788) in the state conventions, in pamphlets, and in newspaper miscellany. The arguments of both sides may then be briefly examined.

There were six members of the Convention who opposed the vice-presidency for various reasons: George Mason and Edmund Randolph of Virginia, Elbridge Gerry and Nathaniel Gorham of Massachusetts, Luther Martin of Maryland, and Hugh Williamson of North Carolina. They were supported later on, outside the Convention, by Richard H. Lee and James Monroe of Virginia, and George Clinton of New York. There were, by way of comparison, five advocates of the office in the Convention: James Madison of Virginia, Rogér Sherman and Oliver Ellsworth of Connecticut, William R. Davie of North Carolina, and Alexander Hamilton of New York. The office was defended or approved outside the Convention by James Iredell, Governor Samuel Johnston, and Archibald Maclaine, all of North Carolina, and by Judge Thomas McKean of Pennsylvania. There were of course others with views on one or the other side. But these eighteen men, expressing themselves in ways that have been recorded, remain the chief sources from which we must judge of the contemporary opinions of the vice-presidency at the epoch of its origin.

The basic assumption of the opponents of the office was that it was unnecessary. Their chief objection to the arrangement was in having the vice-president placed over the senate as chairman. It was argued that the senate should choose its own presiding officer, for the plan of the committee, it was said, "mixed" legislative and executive functions, and was accordingly dangerous. It was Mason's conviction expressed more than once that the senate might make of the vice-president a tool. And in this connection it appeared to Monroe that foreign powers might somehow gain control of him in matters which concerned their interests in the senate. Gerry, on the other hand, feared lest a close intimacy would exist between President and vice-president—a sentiment which touched Gouverneur Morris's humorous side, calling forth from Morris the enlivening comment that the vice-president would then be the first heir apparent that ever loved his father. Even the casting vote was disapproved as likely to give special advantages on occasions to the particular state from which the vice-president might be chosen. Gorham, with discernment more apparent than real, objected that obscure men might gain the second place in the govern-

ment. But in the series of criticisms one will search vainly for a positive or constructive suggestion as to a mode of modifying the office. The opponents of it were uncompromisingly opposed to it.

The advocates of the new office had, it must be granted, the easier task, for the vice-presidency came before the Convention stamped with the approval of the committee on unfinished parts. It was the committee's solution of the vacancy question. "The consideration which recommends it to me," said Madison on June 17, 1788, before the Virginia state convention, "is that he [i.e., the vice-president] will be the choice of the people at large." This sentiment, proclaimed in some variety of language by others such as Iredell, Hamilton, Maclaine, and Sherman, pointed out the national aspect of the office. Placing the vice-president over the senate as its chairman was admitted by Sherman, speaking before the Convention, as a means of affording occupation to the second officer. As chairman of the senate, it was urged, the vice-president should be an impartial officer so far as he had anything to do in that body, for he would represent the states as a whole. And there was pronounced approval of the casting vote on occasions as a very proper mode of getting business in the senate done at critical times. No advocate seems to have thought that there would be any close intimacy between President and vice-president. At any rate no one but Morris in an amused mood referred to the matter. As the most succinct statement to be found by an advocate, I quote from Hamilton's essay in *The Federalist* of March 12, 1788, as follows:

The appointment of an extraordinary person as vice-president has been objected to as superfluous, if not mischievous. It has been alleged that it would have been preferable to have authorized the senate to elect out of their own body an officer answering that description. But two considerations seem to justify the ideas of the Convention in this respect. One is that, to secure at all times the possibility of a definite resolution of the body, it is necessary that the President should have only a casting vote. And to take the senator of any State from his seat as senator, to place him in that of president of the senate, would be to exchange, in regard to the State from which he came, a constant for a contingent vote. The other consideration is that, as the vice-president may occasionally become a substitute for the President . . . all the reasons which recommend the mode of election prescribed for the one apply with great if not with equal force to the manner of appointing the other¹⁸

¹⁸ I have not reckoned among the group of opponents of the Vice Presidency Rev. David Caldwell of North Carolina, chiefly because his attitude, though hos-

There can be no doubt that the advocates of the vice-presidential office had the better of the argument at the close of the theoretical stage of the subject, in other words, before the new government was set in motion. The vacancy problem could be solved, they were convinced, only by the device of a second officer elected as the President was, and certain (like the President) to make a nation-wide appeal. That there would need to be some change in the electoral process, such as was introduced in 1804 by the Twelfth Amendment, was not foreseen, for the significance of parties in the mechanism of the national government was only clearly discerned after the choice of Jefferson as vice-president with John Adams in the election of 1796, and still further emphasized by the political situation of 1800-1801. By this amendment, it will be recalled, a designating or discriminating principle was introduced into the Constitution: candidates for President and vice-president were thereafter to be voted for on separate ballots. Choice was to prevail where chance had previously existed. The mode of election became smoother and more efficient; but, as Mr. Henry Adams has pointed out, the tendency of the amendment was to exaggerate the importance of the Presidency and at the same time to lower the dignity of the position of the second officer.¹⁹ With remarkable discernment, it was seen by a few men at that time that the vice-presidency might become a market-

tile, was one of inquiry and of no special moment. It may be useful to list the materials, not heretofore directly referred to in footnotes, bearing on the office (1787-1788):

Farrand's *Records*: ii, 545, 552, 567, 573 ff., 592, 597, 598, 600, 633, 635, 636, 639, iii, 136, 217 (Luther Martin's comment in "Genuine Information."), 343-344 (W. R. Davie's comment in the N. C. Convention).

State Conventions: (1) Pennsylvania: McKean's comments, December 11, 1787. Elliot, *Debates*, ii, 531, 538. (2) Virginia: Mason's, Madison's, and Monroe's comments, June 17-18, 1788. Elliot, *Debates*, iii, 486 ff., 495, 498. (3) North Carolina: Caldwell's, Maclaine's, Governor Johnston's, Davie's, and Iredell's comments. July 24, 1788. Elliot, *Debates*, iv, 26 ff., 42-43, 107. Incidentally the office or officer was mentioned before the S. C. Legislature on January 17, 1788. Elliot, *Debates*, iv, 281; and also in the Massachusetts Convention on January 23 and February 1, 1788. Elliot, *Debates*, ii, 85, 86, 127.

Other references are: Mason's "Objections." in P. L. Ford's *Pamphlets*, p. 330. Iredell's "Answer" of January 8, 1788. *Ibid.*, pp. 349-350. R. H. Lee's comments on October 10 and 12, 1787. *Ibid.*, pp. 298, 310. G. Clinton, November 8, 1787. P. L. Ford's *Essays*, pp. 262-263. O. Ellsworth, December 3, 1788. *Ibid.*, p. 158. R. Sherman, December 25, 1788. *Ibid.*, p. 240. A. Hamilton in P. L. Ford's *The Federalist*, p. 456.

¹⁹ *History of the United States*, ii, 133.

able office. "The question will not be asked, is he capable? is he honest? But can he, by his name, by his connexions, by his wealth, by his local situation, by his influence, or his intrigues, best promote the election of a President?"²⁰ The change made way for the enforcement of party wishes, first through the congressional caucus, and then through the mode of the national convention—the mode which has been conspicuous ever since it was adopted in the Jacksonian epoch.

The chairmanship of the senate, the position determined upon in 1787 for the vice-president, was the result of secondary considerations. This arrangement afforded the chief ground for objections to the office—objections, however, which impress us today as largely unreal. The very thought of the vice-president as a tool of the senate, or as an officer likely to influence that body in favor of a foreign power as against the national interest, is quite enough to raise a smile. The officer was really placed at the senate's mercy; and the quality of that mercy hitherto has been distinctly strained. John Adams bemoaned his impotence in extravagant language; and other vice-presidents would probably occasionally have done so, had they had Adams's gift of recording their sentiments. The suggestion of undue intimacy, on the other hand, between President and vice-president may be briefly dismissed. For a time Washington and Adams kept up the practice of some personal intercourse. Jefferson, however, announced soon after taking up his task as vice-president that he regarded the office as constitutionally limited to legislative functions.²¹ This assumption, although unacknowledged, has probably guided most of his successors. But Jackson and Van Buren were warm and admiring personal friends. Polk and Dallas consulted frequently and informally together, as every reader of Polk's *Diary* knows, on points involving national and party policies. And the same sort of useful intercourse certainly existed between McKinley and Hobart until Hobart's death in office on November 21, 1899. These are the only examples thus far of that "dangerous" intimacy which Gerry thought that he foresaw in 1787.

The subject of the casting vote of the vice-presidents has, so far as I am aware, never received any systematic attention. This important constitutional privilege has been exercised many times from the beginning of the office down to the present day. About this matter I am not yet ready to venture many conclusions. This vote has, however, fre-

²⁰ Senator Samuel White of Delaware in the Senate, December 2, 1803. *Annals of Congress* (1803-1804), 8 Cong., 1 sess., p. 144.

²¹ May 13, 1797. *Writings*, ed. P. L. Ford, vii, 120.

quently been used to quicken legislation in accordance with the views of its advocates. Moreover it has had a telling influence on several matters of large legislative consequence, beginning with John Adams's first vote cast in the face of a balanced senate, by means of which he sustained, on July 18, 1789, the President's power of removal.²² On April 28, 1794, Adams killed the bill to suspend British imports—a legislative measure that would probably have rendered the mission of John Jay abortive and might have led us directly into war.²³ On February 20, 1811, Vice-President Clinton was responsible for ending the career of the first United States Bank—a blow to one of the greatest of Federalist measures.²⁴ It was Calhoun's casting ballot in the senate in January, 1832, against the nomination of Van Buren as minister to England that brought Van Buren back to this country and resulted in assuring him his party's nomination to the vice-presidency.²⁵ On July 28, 1846, by his casting vote Vice-President Dallas was responsible for placing the tariff act of that year on the statute book.²⁶ These are a few among many instances of the power which vice-presidents have exerted at critical times for what they believed to be the national or party welfare. The casting ballot has been used by twenty-one out of the twenty-seven vice-presidents from 1789 to the summer of 1911. The six vice-presidents notable for not having used this power were: Tyler, W. R. King,²⁷ Andrew Johnson, Hendricks, Roosevelt and Fairbanks—obviously (except in the single instance of Fairbanks) for the reason that they were in the senate for very short periods. Altogether there are upwards of 150 casting votes to be found in the senate records as thus far printed.

The moment we turn to contemplate the personnel of the vice-presidency—the series of twenty-seven men (four of whom are alive today)—we are confronted by the failure of the founders in their plan of placing the vice-president as well as the President outside the play of party spirit, and of freeing both these officers from democratic dictation. In other words one of the greatest tasks of government, the choice of men, has fallen into the controlling power of party organizations through circumstances unforeseen in 1787. The President has been forced to

²² *Journal of the Senate*, i, 42.

²³ *Journal of the Senate*, ii, 70. Cp. J. Adams's *Works*, i, 457.

²⁴ *Journal*, iv, 578.

²⁵ *Executive Journal of the Senate*, iv, 199, 203.

²⁶ *Journal*, 29 Cong., 1 sess., 1845-1847, pp. 452, 453.

²⁷ W. R. King died on April 18, 1853, before he took the chair.

the position of a party leader by customary regulations characteristic of the national convention and having the strength of law. The vice-president, chosen in the same way, must likewise be a party man, and is under bond to sustain the party's principles which are supposed to make for national welfare. It would be a bold, perhaps an impossible, task to attempt to penetrate into the motives which have guided the leaders of national conventions in selecting candidates for the vice-presidency. Certainly the frenzied proceedings and records of the conventions themselves will throw little light on the problem. Except in a few instances, notably that of Van Buren in 1832,²⁸ the vacancy problem seems to have been lightly considered. The availability of men chosen for the second office has depended on geographical considerations, services to the party, and more or less temporary issues that, like the issue of sound money in 1896, loomed large and called for a vice-president of clear record on those issues.

It is customary to assume that the vice-presidency has sheltered a collection of mediocrities, men at any rate far below presidential dimensions. This sort of blanket criticism is not easy to disprove. It rests doubtless on sundry facts which give it partial justification. It is easy to recall the Presidents and so very easy, on the other hand, to forget the vice-presidents. There have been men of small distinction and little ability in the vice-presidency. On the other hand, it is fair to remember that the larger proportion of our vice-presidents have been men tested in high positions. Beginning with Jefferson there have been ten state governors chosen to the second national office. Four of these—Tyler, Hamlin, Andrew Johnson, and Hendricks—had also served in both the national senate and the house of representatives. Altogether, eleven vice-presidents have had careers in the senate, and fifteen in the house. Only Arthur and Hobart had never held conspicuous national offices. We shall never know just what sorts of vice-presidents Madison,²⁹ Jackson,³⁰ Polk, and Lincoln might have made. But each of these men at different times was considered for the second national office, although, as it happened, all of them occupied the first. The Presidency is after all the only satisfactory test of so-called presiden-

²⁸ See *Van Buren Papers*, MSS., Library of Congress. January-March, 1832, *passim*.

²⁹ It is not usually recalled that New York gave three of its electoral votes to Madison for vice-president in 1809.

³⁰ In the electoral count in 1825 Jackson received thirteen votes for vice-president.

tial dimensions; and, as everybody knows, this test has not always been effectively met when a vice-president was suddenly called upon to take charge of the chief magistracy.

II

The idea that the vice-president has not enough to do as chairman of the senate, and that he should somehow be made more useful than he is, goes back to the very beginning of the office.³¹ It has been emphasized in recent years by almost every writer who has had anything to say about the vice-presidency. The senate, it is urged, should permit their constitutional chairman to appoint committees. If the Constitution could be amended, it might then be made possible for the second officer to take part on occasions in debate like any regular member of the senate, and to vote on all questions.³² Again, it has been proposed that congress create by statute a new department, say, a department of interstate commerce. Over this the vice-president might be placed as director. This latter plan would not, of course, deprive the vice-president of his place over the senate, but would certainly keep him busy during hours when the second chamber was not in session.³³ These proposals I shall not stop to discuss. It is enough to say that they rest substantially on the assumption that a position involving greater freedom and larger responsibilities, yielding at the same time additional official power, would tend to make the vice-presidency attractive to stronger men than hitherto have been drawn to it.

Distinguished from these and somewhat similar proposals is the plan of having the vice-president a member of the cabinet without a portfolio as one of the President's advisers. As long ago as 1896 Mr. Roosevelt, then president of the New York board of police, formulated this project incidentally in the course of an article on the vice-presidential candidates of that year. The project was re-stated by Mr. Bryan in the first number of *The Commoner* (January 23, 1901); it attracted widespread attention when, in the summer of 1908 (July 15) Mr. Bryan declared that he proposed to admit his running-mate, John W. Kern of Indiana, into his cabinet if he were elected to the Presidency in the following November. Since that time Senator Beveridge has been among those to approve the project. Commenting disapprovingly on

³¹ This idea underlay some of the opposition to the office in 1787-1788. It was at times emphasized in the debates over the Twelfth Amendment in 1802-1803.

³² T. Roosevelt in *Review of Reviews* (September, 1896), xiv, 289 ff.; Hon. Walter Clark in *Green Bag* (October, 1896), vii, 427-428; Sen. A. J. Beveridge in *Century* (December, 1909), lvii, 208 ff.

³³ Hon. W. Clark in *Green Bag* as cited above.

the Bryan utterance of 1908, an editorial in the *New York Sun* remarked: "The expediency of making such an innovation is doubtful, and somehow we do not feel apprehensive that a similar declaration of intention will be made by Mr Taft."³⁴ It may be observed in this connection that President Taft, although approving in a recent utterance³⁵ the general plan of bringing the executive and legislative branches into closer relations by admitting the cabinet officers—the heads of the nine executive departments—to seats in both the senate and the house of representatives with the privileges of debate, has no suggestion to make as to what to do for the vice-president.

The framers of the Constitution did not overlook the possibility of including the president of the senate in a council of advisers for the chief magistrate.³⁶ Although they did not directly provide for such a council, they placed no word of limitation in the fundamental law which would prevent any President from calling on the vice-president for advice in case he might wish to do so. Washington took John Adams's written and oral advice on many matters; and once at least invited Adams into a cabinet council, although he himself was not present. Apparently it was Washington's idea that on the occasion of his own absence from the seat of government it was proper that the second officer, the vice-president, should take part in cabinet discussions.³⁷

In later cabinet history I can discover no evidence that reveals a single instance of the vice-president in attendance at cabinet sessions. Jefferson, as I have already pointed out, viewed the second office as essentially concerned with legislative matters; and he gave his friends in 1797 who urged upon him the desirability of his taking part in executive consultations a clear-cut refusal to do so. Not until after Taylor's election to the Presidency in the autumn of 1848 is there additional evidence on the matter. It appears that Taylor, interested in imitating Washington's example and perhaps superficially acquainted with some of Washington's early executive practices,³⁸ conceived the notion that it had been customary to admit the vice-president to cabinet sessions. He consulted with Fillmore somewhat freely in the latter part of February, 1849, a week or so before his term began, and went so

³⁴ July 19, 1908.

³⁵ Lotos Club Speech, New York City, November 16, 1912. Printed in *The Independent*, (New York), November 21, 1912. President Taft elaborated his plan in a message to Congress of December 19, 1912. See *Congressional Record*, vol. xlix, 846 ff. It is peculiarly notable as the first instance of this project in a Presidential message.

³⁶ Farrand's *Records*, ii, 329, 367, 375, 376.

³⁷ For details, see my volume, *The President's Cabinet*, 1912, pp. 123 ff.

³⁸ *New York Herald*, December 26, 1848.

far as to assign to the vice-president certain New York appointments, much to the discomfiture of Senator-elect W. H. Seward and Thurlow Weed. But he was soon informed of his blunder. On March 10, 1849, Seward could write: "The idea of the V. P. being a member of the Cabinet has expired noiselessly."³⁹ From that day to this there has never been an effort on the part of any President to associate the vice-president with the cabinet regularly. It is possible that instances of admitting the vice-president on occasions to a gathering of the cabinet may have occurred, and may some day appear in stray records. But it is certain that from 1789 to 1912 no custom in the matter has been established. One need only to read closely Polk's *Diary* and the *Diary of Gideon Welles* to discover that senators, army officers, and occasionally others have been informally admitted to sessions of the cabinet at odd times.

The vice-president represents no department. With his nomination to office the President has as a rule nothing whatever to do. He is not in any sense, except in the matter of salary, on a par with the heads of the executive departments. The senate has customarily limited his functions to those of a moderator, allowing him very little power. What a man so situated can accomplish, must depend on circumstances beyond control and necessarily indefinable, but also on such factors as party position, political sagacity, and personal force—all of these factors sure to affect the vice-president's capacity to guide and influence the second chamber. Could he be any more effective in his constitutional place as chairman of the senate, it may be asked, if he were recognized as a member of the cabinet? Would the senate approve or sanction such recognition? Prolonged sessions of the cabinet have occasionally been held in the past in times of national emergency. At such times the senate also may be very actively engaged over national and legislative problems. At such times, moreover, there can be little doubt that the vice-president should be in his place in the senate. It is of course quite conceivable that senate ideals on a particular issue may be essentially different from those prevailing in the cabinet, and even at odds with them. In fact, is not this effort to make the vice-president useful really misdirected? For, in the first place, it overlooks the discretionary power always hitherto allowed the President in choosing

³⁹ F. W. Seward, *Seward at Washington, as Senator and Secretary of State . . . 1846-1861*, New York, 1891, p. 107. See also *Autobiography of Thurlow Weed*, ed. Harriet A. Weed, i, 586 ff.; Frederic Bancroft, *Life of William H. Seward*, 1900, i, 213-215.

his intimate counsellors; second, it minimizes, if it does not overlook, past practices; and finally it is, I think, a plan that quite disregards the fundamental ideal of the office.

The vice-president as the second officer of the government is the guardian of the Presidency. Viewed in this light, the officer is necessary. He could not be "lopped off," for the vacancy question is always present. Out of joint as our political machinery may be, the election, if not the choice, of the vice-president—like the election of the President—has always been intended to represent the nation's wishes. Upon this fact much more than upon the chairmanship of the senate the vice-president's chief claim to dignity and distinction really rests. It is not perhaps inspiring for men to serve their country by waiting for an unexpected contingency to arise. But this sort of service is inherent in the nature of the office—it cannot be avoided. "The nature of the office," remarked Madison in the first session of the house of representatives, "will require that the vice-president shall always be in readiness to render that service which contingencies may require. . . . If he is to be considered as the apparent successor of the President, to qualify himself the better for that office, he must withdraw from his other avocations, and direct his attention to the obtaining of a perfect knowledge of his intended business. . . ."⁴⁰ And, with what appears today as amusing ingenuousness, Fisher Ames, speaking on the same occasion of the vice-president, said: "Through the time in which he is not particularly employed, he is supposed to be engaged in political researches for the benefit of his country. . . ."⁴¹ These are old-fashioned views. Possibly they are quite out-of-date. But although seldom or never expressed nowadays, they present an ideal of the vice-presidency which cannot, I believe, have been either forgotten or wholly overlooked.

The questionable methods of nomination by the national convention may have lessened to some extent the real dignity of the vice-presidency, but not the fundamental importance of the office as expressed by Madison. There can be no doubt that many circumstances within recent years have imposed upon the second officer heavy burdens in the matter of sustaining his prestige and position. His social functions alone are bound to be numerous. The well-known fact that several wealthy men within the past quarter of a century have been called to the vice-

⁴⁰ *Annals of Congress*, i, 673. July 16, 1789.

⁴¹ *Ibid.*, i, 674.

presidency is enough to suggest one important reform—the raising of the vice-president's salary to a grade considerably above that of the cabinet officers. Although at first, in 1789, the second officer's salary was slightly above that of the heads of departments, it has remained on a par with such salaries since 1853—slowly rising to the status of \$12,000 in 1907.⁴² Is it not time that this reform in salary should be introduced? Would it not be in keeping with the ideal of the second officer's importance, and help to restore the dignity of his position if he were given such a sum as (let us say) \$25,000? And in this connection we may recall Madison's view once more, as he expressed it in 1789, when the salary problem was under discussion in the House: —“The idea that a man ought to be paid only in proportion to his services holds good in some cases, but not in others. It holds good in legislative business, but not in the executive or judicial departments.”⁴³

⁴² For a table of salaries of President, vice-president and cabinet officers (1789-1909), see *The President's Cabinet*, Appendix A, p. 396.

⁴³ *Annals*, i, 673-674.